

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

+ + + + +

MONDAY

APRIL 12, 1999

+ + + + +

The commission met in Room 220 at 441 4th Street,
Northwest, Washington, D.C., at 1:30 p.m., Jerrily R. Kress,
Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

Jerrily R. Kress	Chairperson
Angel F. Clarens	Commissioner
Herbert M. Franklin	Commissioner
Anthony Hood	Commissioner
John F. Parsons	Commissioner

STAFF PRESENT:

Sheri Pruitt-Williams, Interim Director, Office of
Zoning
Stefanie D. Brown, Office of Zoning
Vincent Erondy, Office of Zoning
Alberto Bastida, Office of Planning
Dave Colby, Office of Planning
Patricia Young, Esq., Office of Corporation Counsel

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P-R-O-C-E-E-D-I-N-G-S

(1:42 p.m.)

CHAIRPERSON KRESS: I'd like to call to order our 1085th meeting session the 4th of 1999. This is the Zoning Commission Regular Meeting. I'm Jerrily Kress, Chairperson. Joining me this afternoon are Commissioners Franklin, Hood and Parsons. With that I'd like to first begin with preliminary matters.

MS. PRUITT-WILLIAMS: Madam, Chairstaff has no preliminary matters.

CHAIRPERSON KRESS: Thank you. With that I do have one preliminary matter. There were several things that were left out of our packet, that were noted on the agenda, that you have received that are in front of you. I have asked staff in the future, when items are not included in our package to please make a note, so that we know that they are not there and then can be aware that we need to review them prior to the meeting such as today.

Next we'll do action on minutes --

MS. PRUITT-WILLIAMS: Madame Chair, the regular public minutes for March 8th are before you today for consideration.

CHAIRPERSON KRESS: Thank you. I have one general comment, and that is that under Item 3, Preliminary Matters, I would like the Case Number to be named with the address as it is in the rest of the minutes, for some reason

1 that wasn't done under Preliminary Matters.

2 So we're -- has the Case Number 98-9 -- it needs
3 to have what the name is, and what the address is, and the
4 same thing has to do with Item Number B that speaks to several
5 cases, and we need their names and addresses, I think, in the
6 minutes and also why -- what this is about.

7 We have reduced our minutes to be very brief and
8 to the point, but I think it is helpful to at least know what
9 the issues are that we're considering. So I would like to
10 make those two changes to the minutes.

11 Does anybody else have any other comments on the
12 minutes before accepting them? If not, do I hear a motion to
13 --

14 MR. HOOD: With that, Madame Chair, I'd like to
15 make a motion that we accept the minutes with the necessary
16 corrections.

17 CHAIRPERSON KRESS: Thank you. Is there a
18 second?

19 MR. PARSONS: Second.

20 CHAIRPERSON KRESS: Any further discussion?

21 All in favor signify by saying aye.

22 (Chorus of ayes.)

23 MS. PRUITT-WILLIAMS: Staff would record the
24 vote as four to zero to approve the minutes. Motion made by
25 Mr. Hood and seconded by Mr. Parsons.

26 CHAIRPERSON KRESS: Thank you.

1 Next I would point out that there was an error
2 included in your package. An OP Report on 98-20, the Walter
3 Washington Estates, that we cannot address yet because the
4 record has not closed, and we are requiring four more pieces
5 of additional information. So that was included erroneously
6 in the packet.

7 Next I'd like to move to Hearing Action, and the
8 first item on the -- or the item under the Hearing Action is
9 99-1, the Fort Lincoln Housing, and with that I'd like to ask
10 for Office of Planning to comment on the case.

11 I'd just like to say one point as you're
12 commenting on this. I think most of us were caught off guard
13 in that there were two cases being asked for. Essentially one
14 with so many housing units of a certain type and then in the
15 alternative, another, and we were kind of -- I was at least
16 confused, since I had never approved alternates before, and so
17 maybe in your report you could address that, if you would, Mr.
18 Bastida.

19 MR. BASTIDA: I'll try to do that Madam
20 Chairperson.

21 For the record, my name is Alberto Bastida with
22 the D.C. Office of Planning. The Office of Planning submitted
23 its record on April 1st, and maybe that's where you're having
24 the problem. It's April Fool's Day.

25 (Laughter.)

26 So what the applicant -- the reason why there

1 were two alternatives is, the applicant is concerned of the
2 marketing of the townhouses and wanted to have the opportunity
3 to do the townhouses and the condominium, if during the
4 process of the sales that turned out to be the case.

5 The Office of Planning saw no objection to that,
6 so it's really you would be -- if you'd like to do so, you
7 would approve one, and then the alternative -- the second.

8 If you feel uncomfortable with that, we can work
9 with the applicant to see how we can subdivide the PUD to have
10 it more clean-cut. It's not a usual request, but it hasn't
11 been unusual many years back to make such a request.

12 CHAIRPERSON KRESS: How did we handle that
13 before? We've had this before with some of the housing
14 projects, where there was a concern about marketing types of
15 units. How have we handled that previously?

16 MR. BASTIDA: You gave the approval, and then
17 you put that if the marketplace in fact couldn't do -- if the
18 unit will not be marketable, then the option of doing the
19 second -- the amended PUD would take place.

20 We did that across the street with the
21 firehouse.

22 CHAIRPERSON KRESS: Uh huh.

23 MR. BASTIDA: In which that PUD is approved with
24 two alternatives. One is to build it without including the
25 firehouse, and the other includes the firehouse. And they
26 provided drawings and specifications and 30 percent completion

1 for both facades -- I mean it is not facades -- for both
2 alternatives. In that way they can go with alternative A or
3 with alternative B.

4 But the Commission, through the hearing process,
5 established that there was a rationale to approve both
6 alternatives.

7 CHAIRPERSON KRESS: Are they alternatives, or is
8 one adopted and then the other a modification?

9 MR. BASTIDA: No, they were alternatives.

10 CHAIRPERSON KRESS: And they were alternatives
11 approved?

12 MR. BASTIDA: Yes. It will be -- the PUD will
13 be this way or will be A or will be B. It will not be a
14 modification -- my understanding is that there will not be a
15 modification -- a kind of modification, because you are
16 looking at it both ways. So it is an alternative. So it was
17 alternative A and alternative B.

18 And I think my memory serves me correct, because
19 I handled that case many years ago, and if you would like me
20 to go and do some exploration on the record, I will be glad to
21 do so.

22 CHAIRPERSON KRESS: I'm sorry I interrupted you,
23 did you have anything else you'd like to comment on -- the
24 project?

25 MR. BASTIDA: I assume that the discussion of
26 the two alternatives has been enough clarified for you at this

1 time?

2 CHAIRPERSON KRESS: No, there might be other
3 questions. I just wanted to finish any comments you had
4 before I opened it for general questions.

5 MR. BASTIDA: Okay. The Office of Planning, as
6 I stated previously, filed this application on April 1st. We
7 provided the applicant's proposal, site location, and then
8 existing zoning, and planning and zoning-related issues
9 consistent with the comprehensive plan evaluation of the
10 standard of section 2403, Neighborhood Impact Zoning, and the
11 amenities proffered by the applicant.

12 The Office of Planning, based on the preliminary
13 report -- the preliminary review of this application, has
14 determined that the application meets the threshold of
15 reasonableness for the Commission to consider the case at the
16 public hearing.

17 The proposed project on its face is consistent
18 with the comprehensive plan, and the generalized land-use map,
19 and the review undertaken so far indicates that the proposed
20 project could have substantial benefits to the District of
21 Columbia through the construction of either 95 single family
22 detached dwellings or 85 single detached dwellings and 30
23 condominium units.

24 The Office of Planning is concerned about the
25 quality of the building materials proposed for the facades of
26 the dwelling. If this application is scheduled for public

1 hearing, the Office of Planning will work with the applicant
2 regarding the proposed building materials.

3 The Office of Planning recommends that the
4 Zoning Commission schedule a public hearing for the proposed
5 development.

6 That concludes my presentation, Madam
7 Chairperson, and I will try to answer any questions you might
8 have. Thank you.

9 CHAIRPERSON KRESS: Thank you.

10 Questions for the Office of Planning?

11 COMMISSIONER PARSONS: I'm confused by this, so
12 I need some help.

13 I'm looking at the site development plans which
14 are contained in the booklet under Tab A, and sheets 407, 507,
15 607, 707. What do they mean? Please describe those to me?

16 MR. BASTIDA: Mr. Parsons I couldn't quite hear
17 you.

18 COMMISSIONER PARSONS: Could you describe these
19 four plans and tell us what are in these?

20 MR. BASTIDA: Which four --

21 CHAIRPERSON KRESS: 407, 507 --

22 COMMISSIONER PARSONS: Four, five, six and
23 seven.

24 CHAIRPERSON KRESS: And 607.

25 COMMISSIONER PARSONS: I assume these are two
26 alternatives, but I don't understand it.

1 MR. BASTIDA: I'm reviewing them -- okay.

2 Four of seven shows you on the western portion

3 of the site which is the extreme right-hand side of the sheet,

4 the alternative with the condominium.

5 COMMISSIONER PARSONS: So the condominium is on

6 the right side of the sheet --

7 MR. BASTIDA: Correct.

8 COMMISSIONER PARSONS: -- and appear to be

9 townhouses -- or attached houses.

10 MR. BASTIDA: The architecture appears that way,

11 but they will be a little higher, so it will not be

12 townhouses, and it will not look like townhouses, totally,

13 even though the developer does not propose to go any higher

14 than it was permitted on the matter of right under existing

15 zoning.

16 COMMISSIONER PARSONS: And that's 40 feet?

17 MR. BASTIDA: I don't think he's going that

18 high.

19 COMMISSIONER PARSONS: I thought that's what

20 your report said. Okay.

21 Then what would 507 be?

22 MR. BASTIDA: 507 is the --

23 COMMISSIONER PARSONS: -- same thing, detailed

24 landscape -

25 MR. BASTIDA: Let me -- yes.

26 CHAIRPERSON KRESS: I think they're all the

1 same.

2 MR. BASTIDA: 507, yes.

3 Now if I recall correctly, 607 is with
4 townhouses.

5 CHAIRPERSON KRESS: All three of those plans
6 appear to have the townhouses on them. They just appear to me
7 to be a landscape plan and a circulation plan. It doesn't
8 seem to be --

9 COMMISSIONER PARSONS: That's what I thought.

10 CHAIRPERSON KRESS: I don't see an alternative
11 plan --

12 COMMISSIONER PARSONS: One's a side plan, one's
13 a circulation, one's landscaping, one's grating.

14 So where is this second alternative?

15 Or isn't it graphically displayed?

16 MR. BASTIDA: I stand corrected. A closer look
17 to the plans as stated here, it appears that your statement
18 Mr. Parsons and your statement Mrs. Kress is correct. It
19 appears to be one of the same one.

20 At the time that I met with the applicant and
21 went through these, it was explained to me and they did have
22 two different plans. Maybe you might -- but what I'm not
23 incorrect about is that in fact that extreme western portion
24 of the site, which is the part closest to your right, would be
25 the location of the condominium.

26 COMMISSIONER PARSONS: All right then let's go

1 ahead to the drawings.

2 MR. BASTIDA: Okay.

3 COMMISSIONER PARSONS: Excuse me. The drawings

4 immediately following these.

5 The first one is of a house with a two-car

6 garage.

7 MR. BASTIDA: That is correct.

8 COMMISSIONER PARSONS: The next is a floor plan,

9 the next is a floor plan, and then we come to something

10 labeled Ft. Lincoln condos.

11 MR. BASTIDA: That is correct.

12 COMMISSIONER PARSONS: These appear to what I'll

13 characterize as townhouses.

14 MR. BASTIDA: That -- I would agree with you,

15 for such.

16 COMMISSIONER PARSONS: All right.

17 I'm presuming -- and here's my question. That

18 one -- the design of this project will remain the same.

19 They're asking for flexibility to sell the units, which I'll

20 call townhouses, as condominium regime rather than single-

21 family, attached, residential units.

22 That's the only difference here -- is the

23 mechanism for ownership, I think.

24 MR. BASTIDA: No.

25 COMMISSIONER PARSONS: Not a completely

26 different site plan.

1 MR. BASTIDA: No. No, it is not. There is a
2 difference. And it is not clearly portrayed here on the site
3 plan, but there will be a difference. Because the
4 condominiums will look more like a multifamily, residential
5 building than the townhouses. And it's not solely how it is
6 going to be sold, but it also goes to the physical aspect of
7 how the building will look like.

8 COMMISSIONER PARSONS: But that isn't really
9 before us yet--

10 MR. BASTIDA: Well --

11 COMMISSIONER PARSONS: -- in this package.

12 MR. BASTIDA: I would agree with you that there
13 is not enough information to really ascertain what is proposed
14 as well as when it was presented to me -- I mean to the Office
15 of Planning.

16 COMMISSIONER FRANKLIN: But there's enough in
17 your view for us to set it down and require that there be some
18 clarification?

19 MR. BASTIDA: That would be my advice, Mr.
20 Franklin.

21 COMMISSIONER HOOD: I just want to add -- I
22 believe what they are requesting -- the first alternative is
23 the 95 single-family homes.

24 MR. BASTIDA: That is correct.

25 COMMISSIONER HOOD: The second alternative, if
26 that doesn't work, is the 85 or 80 single-family homes --

1 CHAIRPERSON KRESS: 80.

2 COMMISSIONER HOOD: -- along with the

3 condominiums --

4 CHAIRPERSON KRESS: -- with 30 condominiums.

5 COMMISSIONER HOOD: -- with 30 condominiums.

6 MR. BASTIDA: -- which it will increase

7 basically the number of dwelling units. But it will not

8 impact that much the lot coverage or the FAR.

9 COMMISSIONER HOOD: So the first alternative

10 before the Commission would be, if it's set down as the

11 dwelling, the 95 single-family homes?

12 MR. BASTIDA: That is correct.

13 COMMISSIONER HOOD: Okay.

14 MR. BASTIDA: Well, if you were going to set it

15 down now, I think that what Mr. Franklin alleges is that, in

16 fact, you're setting the two proposals down, the 95 homes plus

17 the 80 or 85 plus the 30 condominiums.

18 Or perhaps I should have let Mr. Franklin

19 explain for himself.

20 COMMISSIONER FRANKLIN: Well, I just -- Mr.

21 Bastida's correct. I think at this point, rather than trying

22 to speculate on what is before us, if in general we're being

23 told there's enough information for us to set it down, with

24 the understanding that they're going to come forward with two

25 alternatives, that they present us with plans that are

26 sufficient in detail to show us what each alternative would

1 look like in terms of the usual requirements for a PUD in each
2 instance, and then we can decide at that time, or after a
3 hearing, whether we want to entertain the approval of
4 alternative A and alternative B and how one alternative gets
5 triggered.

6 COMMISSIONER HOOD: If that's an order annd
7 that's in the form of a motion, I'll second it.

8 CHAIRPERSON KRESS: All right -

9 COMMISSIONER FRANKLIN: It is a motion.

10 COMMISSIONER HOOD: I'll second the motion.

11 CHAIRPERSON KRESS: All right. So Commissioner
12 Franklin moves that we set this down, and Commissioner Hood
13 seconds. I would just like to say that typically we do
14 require more detail right now on the plans. On the
15 condominium it's not clear from the diagram of the
16 condominiums, in the plan of the condominium, that this is the
17 only unit, and how they are assembled to make the
18 configuration on the plan. So we need full floor plans of the
19 condominiums, I feel, to be able to make our decision.

20 Also, we need -- I don't see a lighting plan.
21 We need our typical lighting plans, site lighting plans. If
22 I'm not mistaken, I don't see that either, and material
23 samples -- the regular things that we need for a PUD, I would
24 just say, is what we would be looking for in order to make our
25 decision.

26 COMMISSIONER FRANKLIN: For each alternative.

1 CHAIRPERSON KRESS: For each alternative.

2 MR. BASTIDA: Madam Chairperson, if you were to

3 set it down for a hearing, we will strive to do that. The

4 applicant is here, and he's listening to you rather

5 attentively, and the Office of Planning is doing the same.

6 We work with the applicants to do that and also

7 to make sure that the 30 per cent DD is in fact accomplished

8 for both alternatives, so the Commission has all the

9 information that the Commission needs to make a sound decision

10 based on facts of this project.

11 CHAIRPERSON KRESS: Perfect.

12 MS. PRUITT-WILLIAMS: Madam Chair?

13 CHAIRPERSON KRESS: Excuse me?

14 MS. PRUITT-WILLIAMS: Mr. Parsons did proxy a

15 vote and a -

16 CHAIRPERSON KRESS: Mr. Parsons?

17 MS. PRUITT-WILLIAMS: I'm sorry, Mr. Clarens.

18 (Laughter.)

19 CHAIRPERSON KRESS: I just would like to share

20 it with you before you go into final vote. He is in favor --

21 he would vote favorably for this if it was changed to a two

22 stage PUD. He believes that as it is right now, it's not

23 enough information. That it's too large. That it should be a

24 two phase instead of a consolidated.

25 If you choose to go that way, he would approve.

26 If not, he will vote to deny.

1 COMMISSIONER PARSONS: Well, not that we can
2 change his mind. He's not here -

3 (Laughter.)

4 But what we traditionally do is, if we get half-
5 way through a case and determine that they have not made the
6 case to the level of the second stage, we can convert it on
7 the spot, and we've done that.

8 In other words, give the applicant the benefit
9 of the doubt at this point, and then if we get halfway through
10 the hearing and say, 'gee, it's not there', we can announce it
11 at that time. Because I do agree with him, at this juncture
12 there's just not enough information.

13 We need materials -- and more than sketches of
14 houses, and so forth.

15 I would absolutely agree with what --

16 CHAIRPERSON KRESS: Not in the sense of needing
17 the two stage, but in the fact that --

18 COMMISSIONER PARSONS: Certainly if -- that was
19 my thought sitting in my living room as well, 'Wait a minute,
20 this is not the standard that we're used to'.

21 CHAIRPERSON KRESS: Yes.

22 COMMISSIONER PARSONS: So --

23 MR. BASTIDA: Mr. Parsons is correct, and I'm
24 sorry that I didn't pay much attention to what the Office of
25 Zoning certified as being complete. Because if I would have
26 paid more attention, I would have discovered that I would have

1 tried to remedy prior to this meeting.

2 CHAIRPERSON KRESS: Well, basically I don't
3 think there's any problem. I think that the applicant, as you
4 said, is here, and the Office of Planning will work with the
5 applicant so that we get all the appropriate information, and
6 I would go along with what Commissioner Parsons has said. If
7 in fact for any reason there is inappropriate information at
8 the hearing, then we can at that point make it a two-step
9 process.

10 If there isn't any more discussion -- oh, you
11 still have some more discussion. Excuse me, Commissioner
12 Parson.

13 COMMISSIONER PARSONS: Well, as is usually the
14 case when we're adjacent to one of the forts in this city, I'm
15 interested in any impact that may occur to the fort itself,
16 and the views of the city.

17 I'm fairly certain that the first fold-out
18 drawing behind the cover sheet shows in its left edge, what I
19 think is the fort. That is -- it's now a play area, an
20 outdoor recreation area. And the views are from that point
21 out across this site, and I'm fairly certain -

22 CHAIRPERSON KRESS: Oh, that's a high point?

23 COMMISSIONER PARSONS: Yes.

24 I'm fairly certain that this project won't
25 impinge on those views, because it's relatively high, but if
26 they could do a site analysis across here to see if any of

1 these structures are going to intrude on that view, similar to
2 the case we had the other evening --

3 So that would be my request. To have an
4 analysis done similar to the one on Wisconsin Avenue.

5 MR. BASTIDA: Madam Chair, could I just take a
6 minute of your time?

7 CHAIRPERSON KRESS: Sure.

8 MR. BASTIDA: It was difficult to hear totally
9 Mr. Parsons because of the background noise. Let me just
10 reiterate what my understanding is.

11 What you're really looking is -

12 COMMISSIONER PARSONS: Can't hear you.

13 (Laughter.)

14 That was worth two points.

15 COMMISSIONER PARSONS: Go ahead, I'm sorry.

16 MR. BASTIDA: What you're requesting is compass
17 views -- a study view from the fort. How any construction in
18 this area would affect those views.

19 COMMISSIONER PARSONS: Yes. It certainly
20 doesn't have to be 360 degrees. I mean it's just across this
21 site.

22 MR. BASTIDA: Okay.

23 COMMISSIONER PARSONS: And I know there's a high
24 rise building that's been built that never should have been
25 built --

26 MR. BASTIDA: Right.

1 COMMISSIONER PARSONS: -- and some day may be
2 demolished, in this vista as well.
3 I know the vista is compromised, but --
4 MR. BASTIDA: Okay.
5 COMMISSIONER PARSONS: -- let's not let this
6 project do the same thing.
7 MR. BASTIDA: Okay. Thank you for the
8 clarification, and I'm so glad you can hear me now.
9 CHAIRPERSON KRESS: All right. If there isn't
10 any more questions, we'll go ahead and call the vote.
11 All of those in favor signify by saying aye.
12 (Chorus of ayes.)
13 Opposed.
14 (No response.)
15 MS. PRUITT-WILLIAMS: Staff will record the vote
16 as four to zero, a motion made by Mr. Franklin, seconded by
17 Mr. Hood, for approval of a consolidated PUD, set down for a
18 consolidated PUD.
19 CHAIRPERSON KRESS: I believe you stated that
20 Mr. Clarens said that -
21 MS. PRUITT-WILLIAMS: In opposition.
22 CHAIRPERSON KRESS: He would be in opposition,
23 so it should be 4-1.
24 MS. PRUITT-WILLIAMS: 4-1.
25 CHAIRPERSON KRESS: Thank you.
26 All right.

1 MS. PRUITT-WILLIAMS: Madam Chair, the next item
2 on the agenda of final actions --

3 The Commission has taken proposed action on the
4 following cases, and final action is now requested.

5 The first item for your review is 98-19, Text
6 Amendments, Zoning Commission Board of Zoning Adjustments
7 Rules of Practice and Procedures.

8 In your packets you should have NCPC Report
9 along with the draft order and some additional comments.

10 CHAIRPERSON KRESS: All right. Thank you.

11 Has the Office of Planning had a chance to look
12 at the information, Mr. Colby, that came in from DCBIA, Ms.
13 Kahlow and Mr. Williams, and the NCPC?

14 MR. COLBY: We've had an opportunity but haven't
15 availed ourselves of that opportunity and would be happy to
16 look at it now quickly while you're discussing the case.

17 CHAIRPERSON KRESS: Well, one of the things, and
18 I was going to talk to -- ask my fellow commissioners is -- I
19 found several things in here that I would like to have the
20 Office of Planning's opinion on as well as perhaps even DCRA's
21 opinion on, since there are some issues that we haven't -- I
22 believe there may be refinements on what we have been
23 discussing, but they are issues that we haven't particularly
24 discussed.

25 And depending on my fellow commissioners, I
26 might like to go through and point those out and then ask the

1 Office of Planning to review those and review them with DCRA,
2 particularly Amando Lorenzo, and hold off voting on this until
3 next month.

4 MR. COLBY: We'd be happy to do that.

5 CHAIRPERSON KRESS: Is that all right --
6 agreeable?

7 (Chorus of ayes.)

8 CHAIRPERSON KRESS: All right, let's just -- I'd
9 just like to highlight several of them and anything else
10 that's in here -- feel free.

11 Obviously the comments of NCPC need to be
12 reviewed and given great play. I believe that the same kind
13 of comment is addressed by Mr. Williams and by Ms. Kahlow, and
14 so I'm not sure what the appropriate rendition is, but I think
15 we need to look at the height regarding that roof structure.

16 The --

17 COMMISSIONER FRANKLIN: Could I observe, Madame
18 Chair, that we would not have authority to adopt any
19 regulations that flew in the face of the statute referred to
20 by the National Capitol Planning Commission. So it seems to
21 me that their clarification is useful, but as a legal matter
22 wouldn't make much difference.

23 CHAIRPERSON KRESS: Uh - huh.

24 There are other proposals, and I believe --

25 COMMISSIONER FRANKLIN: Yes.

26 CHAIRPERSON KRESS: -- we need some clean up on

1 the wording --

2 COMMISSIONER FRANKLIN: Right.

3 CHAIRPERSON KRESS: -- and I was just asking OP
4 for its recommendation.

5 Regulating to DCBIA, I think we have already
6 discussed their Item 1, and at this point we felt that we were
7 not going to be putting the time frames on ourselves, until we
8 had a chance to become organized and hire appropriate people
9 and be able to meet the deadlines of the 30 days, 60 days,
10 what have you.

11 And I believe we agreed before that, at the time
12 when we have the appropriate people hired and are able to
13 function and meet deadlines, we will then revise our rules to
14 incorporate them, but for right now, unless someone disagrees
15 with me, we wouldn't be addressing DCBIA's comment Number 1.

16 Comment Number 2 has an interesting part to it,
17 and its Number 2 which is to allow the applicant to rely upon
18 its written submission as its case in chief at the public
19 hearing with an opportunity for questions from the Commission
20 and cross examination from parties.

21 I don't know if we need to add that, but I think
22 that's something that would sure help us to expedite NBZA.
23 It's proposed both through the Zoning Commission and NBZA, and
24 I would like the Office of Planning to look at that if they
25 would.

26 COMMISSIONER FRANKLIN: That would presuppose

1 that other parties would have the full case submission before
2 them, so that they could ask questions.

3 CHAIRPERSON KRESS: And again I'm not
4 saying that we're making any decisions on these. I'm just
5 pointing out things that I would like the Office of Planning
6 to look at. I would like them to review this, but
7 particularly look at Number 5 --

8 COMMISSIONER HOOD: Madam Chair, can we just
9 back up to Number 4?

10 CHAIRPERSON KRESS: Uh-huh.

11 COMMISSIONER HOOD: I think that I see this man
12 proposing in by deleting 40 days and inserting 30 days.

13 CHAIRPERSON KRESS: We've already discussed
14 that. I don't see us going back to that.

15 COMMISSIONER HOOD: Right. Okay. That's fine.

16 CHAIRPERSON KRESS: I just, again, I'm just
17 trying to point out perhaps areas that we can look at, that we
18 haven't completely before.

19 Number 9 I suggest looking at. Number 11B,
20 Number 15, Number 16, Number 17, Number 18 and Number 20 which
21 is the same roof structure requirements that we've addressed
22 before.

23 Lindsley Williams, I suggest taking a look at
24 the flexibility regarding roof structures. He has several
25 points on that same issue.

26 The administration of the flexibility

1 requirements, and the submission of the proposed order, and
2 the effective date. I think the effective date is a very
3 important one as it relates to adopting the regulations and
4 when they take effect.

5 Mr. Williams' letter here proposes four weeks
6 and notification. There may be parts that can be effective
7 immediately, and other ones that we need to set up a date at
8 which it takes effect. I don't think we've really spent time
9 looking at how this takes effect and when it takes effect from
10 our passage.

11 And Ms. Kahlow's letter, she points out a couple
12 of things. One relating to the party definitions which I
13 think we can look at a little bit again. She also points out
14 that in our rules and procedures, the BZA version in the time
15 frames provides no time for supporters to testify when we
16 limit with our one hour rule, and that seems like a typo. So
17 I think we should take a look at that.

18 If anyone else has any other points, what I
19 would then do at this point is just to ask Office of Planning
20 if they would review it. Bring us comments at our next
21 meeting, and then we can discuss all the details at our next
22 meeting.

23 Is that all right with everyone?

24 Okay, with that we'll --

25 MR. COLBY: I assume we're not getting no
26 continued pressure or inquiry by the Control Board.

1 CHAIRPERSON KRESS: Yes, we are getting inquiry
2 and we should be passing this at our next meeting.
3 MR. COLBY: All right.
4 CHAIRPERSON KRESS: I just felt that there were
5 a few clean up items --
6 MR. COLBY: Oh, I agree with you. I just --
7 you're the one who will withstand the pressure, so good luck.
8 CHAIRPERSON KRESS: Thank you.
9 MS. PRUITT-WILLIAMS: The next item on the
10 agenda is 98-9 Map Amendment-Petition to rezone from R-4 to
11 Arts/C-2-B for the 1900 block of Ninth Street, Northwest, for
12 lots 33-0-33, 800, I'm sorry, it should be 33, 800, 802, 804
13 through 807 and 824 in Square 393.
14 You have a draft order and the NCPC report
15 before you.
16 CHAIRPERSON KRESS: Did everyone get the draft
17 order?
18 (No response.)
19 COMMISSIONER FRANKLIN: Madam Chair, if I'm not
20 mistaken, I did not participate in that matter.
21 CHAIRPERSON KRESS: Okay.
22 COMMISSIONER FRANKLIN: That was November 23rd?
23 Did I --
24 MS. PRUITT-WILLIAMS: Yes, correct Mr. Franklin,
25 you did not participate in that.
26 COMMISSIONER HOOD: I received the National

1 Capitol Planning Commission's, but I didn't receive anything
2 else with that.

3 CHAIRPERSON KRESS: Okay, then --

4 COMMISSIONER HOOD: I didn't see it --

5 COMMISSIONER PARSONS: It was at your place
6 today when we got here.

7 COMMISSIONER HOOD: Oh, okay. Well, I have it
8 now.

9 CHAIRPERSON KRESS: Are you uncomfortable about
10 voting since -- I came early and read some of these things.
11 Actually Ms. Pruitt-Williams was nice enough to come into the
12 office on Sunday and fax it to me at home, so I could read it.

13 (Silence.)

14 CHAIRPERSON KRESS: Have you had a chance to
15 review it, Commissioner Parsons? Are you comfortable, or
16 would you prefer to --

17 COMMISSIONER PARSONS: I'm speed reading it as
18 you speak.

19 CHAIRPERSON KRESS: Okay, then I will just be
20 quiet for a few minutes and give you a -- would you like to
21 speed read --

22 COMMISSIONER HOOD: Right, I'm speed reading.

23 CHAIRPERSON KRESS: Okay. Thank you.

24 (Long pause.)

25 CHAIRPERSON KRESS: If you want, we might as
26 well go ahead and take a look at 90-20 F, which is an old case

1 was handed out also today. So you might want to read 90-20 F
2 as long as we have taken a few minutes to read. All right.
3 We will return to the record, and the case for discussion
4 right now is 98-9 which is the map amendment 1901 to 1917
5 Ninth Street, Northwest, the Jackson's. This is for final
6 action. Are there any comments on the order as written --
7 final order as written?

8 MS. PRUITT-WILLIAMS: Madam Chair, staff would
9 just like to make a note that this is a new format that we're
10 trying out and would like any comments back on how we've
11 worked with court counsel to try to make them a little bit
12 more concise and a little clearer and easier to read for
13 everyone.

14 CHAIRPERSON KRESS: I think you have done that,
15 and I would definitely applaud this effort and what has
16 happened in the way you've put it together and formatted it.

17 COMMISSIONER PARSONS: Madam Chair?

18 CHAIRPERSON KRESS: Yes, question?

19 COMMISSIONER PARSONS: I have a point on number
20 2 on page 4 that I'd like to clarify and this has to do with
21 the ANC's position in this matter having to do with their
22 point that they felt that this area was intended as a buffer
23 between residential and commercial uses. And I want to
24 suggest a change to everything after the words "zoning
25 regulations" on line 4 -- 3.

26 COMMISSIONER PARSONS: So I would -- I would -

1 CHAIRPERSON KRESS: You're talking about under
2 conclusions of law on number 2 --

3 COMMISSIONER PARSONS: Yes, I'm sorry, number 2.

4 CHAIRPERSON KRESS: Would you like to read what
5 you propose?

6 COMMISSIONER PARSONS: So where we get to the
7 words, it says 'commercial uses is not supported by the zoning
8 regulations'. I would change 'or' to 'nor', and say, 'nor did
9 the ANC offer any evidence to support this position'. In
10 other words take out "presented in the record".

11 CHAIRPERSON KRESS: I see.

12 COMMISSIONER PARSONS: Because indeed their
13 testimony is evidence. So I'm trying to get -- what this
14 really is meant to say, is that they've produced no evidence,
15 which is more hearsay.

16 So it would read, 'nor did the ANC offer any
17 evidence to support this position'. Otherwise I have no
18 problems with it.

19 CHAIRPERSON KRESS: Commissioner Hood, is that
20 acceptable to you?

21 COMMISSIONER HOOD: Yes, that's acceptable.
22 That's fine.

23 CHAIRPERSON KRESS: Did you have any other
24 comments yourself?

25 COMMISSIONER HOOD: No, that was one of my
26 concerns too, but with that I'll make a motion that we move to

1 accept Case Number 98-9 as written --

2 CHAIRPERSON KRESS: Thank you.

3 COMMISSIONER PARSONS: Second.

4 COMMISSIONER HOOD: -- with the necessary

5 corrections.

6 CHAIRPERSON KRESS: Any further discussion?

7 All in favor signify by saying aye.

8 (Chorus of ayes.)

9 MS. PRUITT-WILLIAMS: Madam Chair, staff would

10 record the vote as four to -- Mr. Parsons, I mean Mr. Clarens

11 --

12 CHAIRPERSON KRESS: Mr. Parsons, Commissioner

13 Hood, and hopefully Commissioner Clarens, myself and

14 Commissioner --

15 MS. PRUITT-WILLIAMS: Oh, I'm sorry, I was

16 reading it incorrect -- correct, I'm sorry.

17 MS. PRUITT-WILLIAMS: Three to zero to approve,

18 with Mr. Franklin and Mrs. Kress not voting, not having

19 participated.

20 CHAIRPERSON KRESS: Not having heard the

21 proceedings. Thank you.

22 MS. PRUITT-WILLIAMS: The next item on your

23 agenda is 90-20F/87-4P. A PUD at Capitol Point, Extension of

24 Order Numbers 700, 700-A, B, and C.

25 CHAIRPERSON KRESS: Any discussion?

26 If not, may I have a motion?

1 COMMISSIONER HOOD: Madam Chair, this was the
2 piece that was not in our packets.

3 CHAIRPERSON KRESS: No, that's the one I told
4 you to take a --

5 COMMISSIONER HOOD: Right. Can I just ask a
6 question?

7 CHAIRPERSON KRESS: Certainly.

8 COMMISSIONER HOOD: I guess it can go to staff.
9 Why is it that we get things that are not in our packets? I'm
10 still trying to learn and get the grasp of this. It's
11 unfortunate that I have to come up here and rush through
12 trying to read something at a public meeting.

13 I think that these things -- I don't know
14 whether it was submitted late or what, but we need to tighten
15 that up, I believe.

16 MS. PRUITT-WILLIAMS: Mr. Hood, that's a staff
17 issue that we're working on. That's not any of the
18 applicants' --

19 COMMISSIONER HOOD: I think it's unfair not only
20 to the Commission but also to people who come to the meetings.
21 Thank you.

22 COMMISSIONER FRANKLIN: Madam Chair, I'll move
23 to approve this as submitted, with the exception of the
24 spelling of your name --

25 COMMISSIONER FRANKLIN: -- on page 3.

26 CHAIRPERSON KRESS: Thank you.

1 COMMISSIONER PARSONS: Second.

2 CHAIRPERSON KRESS: Any further discussion?

3 All in favor signify by saying aye. Aye.

4 (Chorus of ayes.)

5 MS. PRUITT-WILLIAMS: Staff would record the

6 vote.

7 CHAIRPERSON KRESS: Opposed?

8 MS. PRUITT-WILLIAMS: Four to zero to approve,

9 Mr. Clarens not present, not voting.

10 CHAIRPERSON KRESS: Thank you.

11 MS. PRUITT-WILLIAMS: The next item on the

12 agenda is a consent calendar item. The National Academy of

13 Sciences has submitted an application for a minor modification

14 of a PUD and related map amendment, from an SP2 to a C3 for

15 lots 15 through 19, 24, 25, 822, and 823, and a portion of a

16 closed public alley in square 488 at Fifth Street, Northwest.

17 The National Academy of Sciences proposes to

18 construct a ten story building with general office and retail

19 use incorporating the facades of certain historical buildings.

20 This project will have a height of 120 feet

21 maximum, an FAR of 4.64, I mean 7.64, a lot occupancy of 99

22 percent and a gross floor area of 338,125 for office and

23 retail. It will also include 313 stacked parking spaces, and

24 8 to 10,000 square feet will be devoted to retail use.

25 The applicant proposes to modify the concourse

26 level underground to allow for parking, and parking office

1 space only. The proposed change will result in an increase of
2 parking from 313 to 425.

3 The initial order authorized by the Commission
4 did not include the space in the concourse in the general
5 gross square area.

6 The proposed change will result in a reduction
7 of nine percent of the space set aside for office use.

8 This project has had a long history of
9 extensions, with the original order being approved in July of
10 1990. Subsequent to this order, the PUD has been modified or
11 extended six times with the Zoning Commission extending the
12 validity of the order until December 9, 2000, with
13 construction to begin by December 12, 2001.

14 When this request initially came into the
15 office, it was indicated that there is a change which is
16 really a .09 change in percent, and due to that proposed
17 limited impact, staff did not refer this to OP. However,
18 since then it has been corrected. So we have not sent this to
19 OP, but you may want to given that it's not a .9 -- .09 change
20 but a nine percent change, and the fact that this has had a
21 lot of amendments and extensions over the year.

22 So it's before you for decision.

23 CHAIRPERSON KRESS: Thank you, Ms. Pruitt-
24 Williams.

25 First of all I want to make sure -- we got two
26 sets of this, and I wanted to make sure that we all have the

1 same one. This is dated April 2nd, the other was dated, I
2 believe, in February, late February. So I wanted to make sure
3 that we were all looking at the same letter and the same
4 proposal.

5 One of my concerns is the age of this, and also
6 the fact that the D.C. Preservation League is working and in
7 the middle of discussing some major changes to this building
8 with the architect. And in reading the original order,
9 basically, all of the design issues were left to the
10 Commission of Fine Arts and the HPRB. And I'm a little
11 concerned that now as they're looking to go ahead, major
12 design changes are happening, and we're not having the
13 opportunity to look at them in any way or review them in any
14 way.

15 The original order does say that the materials
16 in the end need to come back to the Zoning Commission, if I
17 read it correctly, at the time of construction, the materials
18 need to be submitted to the Zoning Commission.

19 But I'm concerned of the massive number of
20 changes that we're not looking at or reviewing, and I
21 personally would like to have OP look at some of this.

22 Does anyone else feel as I do?

23 COMMISSIONER FRANKLIN: Well, I'd like to ask
24 the staff, is this going to be built, in your judgment?

25 MR. COLBY: Yes. The comment was made by Ms.
26 Kress that the project is very old. The fact is that these

1 changes are meant to have somebody's -- for the project to
2 move forward immediately and finally get off the lingering PUD
3 list. That's our understanding. And it will be built.

4 COMMISSIONER FRANKLIN: Do you have a list of
5 lingering PUD's?

6 MR. COLBY: I don't have such a list, but I know
7 that I could create a -- there is a list of PUD's that --

8 COMMISSIONER FRANKLIN: I would like very much
9 if you could give us a list of what we might call lingering
10 PUD's, because I'm loaded forbear on them.

11 COMMISSIONER FRANKLIN: However, if this is
12 something that -- I agree with the chairperson that, you know,
13 we ought to be looking at what turns out to be the final
14 design.

15 CHAIRPERSON KRESS: With so many substantial
16 changes, at least that seems to be what I'm reading in the
17 letters, I'm a little uncomfortable just continuing to do
18 modifications.

19 COMMISSIONER PARSONS: Well, Madam Chair, I want
20 to give you a little history here, this was a period of time,
21 1990, with Tirsch Bozberg and Bill Ensign, specifically, and
22 Lloyd Smith for that matter, that they were not comfortable.
23 I didn't concur with that. They were not comfortable with
24 giving design judgments from this. They kept saying that we
25 are not a commission of fine arts. We are not a design review
26 body. Which, as you can imagine, frustrated me immensely.

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1 COMMISSIONER PARSONS: But I never held back.
2 They did.

3 (Laughter.)

4 COMMISSIONER PARSONS: So if you want to know
5 why we did what we did -- the Commission of Fine Arts and the
6 Historic Preservation Review processes that were ongoing at
7 the time and continue, are normal processes, we know it today,
8 because of the composition of this commission, was handed off
9 to others, which I really didn't have much problem with.

10 Because of the historic buildings, the
11 firehouse, everything that's going on here, I felt confident,
12 and still do, that whereas we may have let go of what we call
13 jurisdiction today, it was in good hands.

14 I also don't see -

15 CHAIRPERSON KRESS: With this much flexibility -
16 - everything was flexible, basically everything.

17 COMMISSIONER PARSONS: That's right. I know.
18 It was a much different time. We'd never do this today, I'm
19 sure.

20 But to change gears, maybe we should refer to
21 the staff, or maybe Mr. Colby already knows how many changes
22 have occurred. But certainly this amendment that's before us
23 is not resulting in the kind of change that you're concerned
24 about.

25 CHAIRPERSON KRESS: No. It was all of the
26 material when I read it that I became concerned about, not

1 this particular change.

2 COMMISSIONER PARSONS: Right.

3 CHAIRPERSON KRESS: Like to me this change is
4 the tip of the iceberg. Or in this case all underground, all
5 underwater, so we can't see it.

6 COMMISSIONER FRANKLIN: Well, I'm persuaded by
7 Mr. Parsons that it's too late in the day for us to reassert
8 whatever prerogative we choose to have. I would not be -- I
9 would not want to be a party to delaying this project, if in
10 fact it's on its way.

11 I assume that whatever changes are made would
12 have to go before the Commission of Fine Arts, unless they
13 themselves have, you know --

14 COMMISSIONER PARSONS: Yes.

15 COMMISSIONER FRANKLIN: So under the
16 circumstances, I guess I would not want to reassert our
17 prerogative in terms of looking at the design.

18 COMMISSIONER PARSONS: I'm trying to recall, but
19 I think their jurisdiction here is unusual, because it faces
20 Judiciary Square. I think, unlike most buildings that we look
21 at, Fine Arts doesn't look at at all, this one they have
22 jurisdiction, as they do along Rock Creek Park, for instance.

23 But I'm not certain of that, but it was that
24 reason that we left to the expertise of others, design
25 judgment.

26 CHAIRPERSON KRESS: I'm persuaded, Commissioner

1 Parson.

2 So what is the Commission's --

3 COMMISSIONER PARSONS: Well, I think this is an

4 appropriate matter for a consent calendar, and that we should

5 approve the modification as submitted.

6 CHAIRPERSON KRESS: Is that a motion?

7 COMMISSIONER PARSONS: That's a motion.

8 COMMISSIONER FRANKLIN: Second.

9 CHAIRPERSON KRESS: Motion made and seconded.

10 Discussion?

11 COMMISSIONER HOOD: Yes. I didn't sit on this

12 case I did read through the documents, does that make me

13 qualified?

14 CHAIRPERSON KRESS: Yes.

15 COMMISSIONER HOOD: I'm sorry, I was just saying

16 that I did read through the document, but I didn't actually

17 participate on the case, so that makes me --

18 CHAIRPERSON KRESS: So actually no one sitting

19 here participated on the original case. We all had to get --

20 MS. PRUITT-WILLIAMS: Except for Mr. Parsons.

21 COMMISSIONER HOOD: But I notice I saw

22 everyone's name except for --

23 CHAIRPERSON KRESS: Because there had been --

24 had been --

25 COMMISSIONER HOOD: -- some modifications.

26 CHAIRPERSON KRESS: -- modifications, as it's

1 gone on.

2 COMMISSIONER HOOD: Right. Okay.

3 COMMISSIONER PARSONS: But you're well prepared

4 to deal with this issue --

5 (Laughter.)

6 COMMISSIONER HOOD: Okay. I did look through

7 the books, so --

8 COMMISSIONER FRANKLIN: We all have open minds,

9 and John has filled them.

10 (Laughter.)

11 CHAIRPERSON KRESS: All right. All those in

12 favor of approving this minor modification signify by saying

13 aye.

14 (Chorus of ayes.)

15 CHAIRPERSON KRESS: Opposed.

16 (No response.)

17 CHAIRPERSON KRESS: Motion carries.

18 MS. PRUITT-WILLIAMS: Staff will record the vote

19 as four to zero to approve. Motion made by Mr. Parsons,

20 seconded by Mr. Franklin, Mr. Clarens not present, not voting.

21 CHAIRPERSON KRESS: I would note that we do have

22 approval of the materials, so the applicant should be aware

23 that at the time all else is resolved and they're ready to go

24 ahead, that they are to submit at least the materials to us

25 for review prior to construction.

26 With that we'll move on to the Office of

1 Planning monthly report.

2 MR. COLBY: Fine, and I'd like to piggyback a
3 response to the Commission on open space as part of this, of
4 our status report.

5 The status report itself, the only changes we've
6 made to it, are what I'd call logistical changes indicating
7 where a hearing has been held or where the record has been
8 held open. And those changes are indicated, as usual, in
9 italics, and they're fairly minor, although important case by
10 case.

11 I'm not inclined to go through and point to each
12 of those, but would rather spend a couple minutes trying to
13 respond to the Commission's question on open space zoning,
14 which I think was generated by some discussion by John
15 Parsons, and I believe Ms. Kress was the one who asked for the
16 information.

17 We, or I specifically, researched the copiance
18 of plan amendments, and while that's a fairly hefty document,
19 and I could have overlooked something, all I could find that
20 is changes is contained in the first attachment to our
21 memorandum to you which is a very minor refinement of a Ward 6
22 policy which did originally, and still does, request that the
23 Commission establish an open space zone.

24 I'm not sure whether it was John Parsons or this
25 policy which got us into the business of looking into, way
26 back in 1987, I believe, looking into open space zoning, and

1 the possibility of there being such a zone.

2 The report I should point out, the draft report
3 that's attached, I dragged that out of the files. It's a
4 report that I believe has been provided to the Commission
5 before. It has no date on it, it has not been updated in
6 recent times. It is the report that was produced and was at
7 the time a working document which was the result of the study
8 ten years ago or so on open space zoning.

9 I hesitated, and perhaps should have not
10 included it at all, because in some ways it raises more
11 questions than it answers. But in any case as regards the com
12 plan, there's very little change I believe to the plan as
13 regards open space zoning. But there is clearly the original
14 request in the Ward 3 plan portion of the plan which does
15 speak to the need for an open space zone.

16 And with that I'll shut up and answer any
17 questions that you may have, that I can answer.

18 COMMISSIONER PARSONS: Well, this is a banner
19 day, for me. Yes, it was my initiative in 1987. It was based
20 on the federal open space element of the comprehensive plan,
21 open space and natural features which is a federal element.
22 But it urged the city to undertake zoning and other techniques
23 around park areas to protect them.

24 The -- I'm trying to be careful here. The
25 ensuing debate between myself and Mr. Green resulted in major
26 misunderstanding on this issue between the two of us. He was

1 thoroughly convinced that I was out to take property rights
2 away from people, and that was not the intent at all.

3 As a matter of fact, the tree and slope overlay
4 which followed and was applied in certain locations is exactly
5 what I was talking about. But it took us about 18 months to
6 communicate on that issue. I'm being very careful about my
7 words here.

8 So much of this memorandum goes to trying to
9 give me a short course on property rights. If you have time
10 to read it, you'll see that.

11 Since that time then, what I've said to you all
12 and others is, the Southwest waterfront issue that we went
13 through is a perfect example of what I was trying to do -- is
14 to establish uses in open space that we would allow to be
15 there. Miniature golf courses, parking lots, golf courses,
16 cemeteries, that kind of thing -- that there would be economic
17 return on these things.

18 The second thing that I was trying to do, and I
19 think we should try to do, and I'll keep pushing it and would
20 be glad to chair a task force or anything the Commission might
21 want us to do from here, is to take care of the issue that's
22 now occurring at the Soldier's Home, where you have federal
23 property that we've all taken for granted as open space. It's
24 green on the comprehensive plan.

25 The Soldiers' Home is in trouble financially, so
26 they've decided to sell it for subdivision. And some poor

1 soul will be in here before us - no, some developer will be in
2 here before us in about a year saying, 'Hi there. I bought
3 this from Catholic University, or whatever, and I want to
4 build 90 townhouses.'

5 And that to me is inconsistent with the
6 comprehensive plan. And there ought to be some way that we
7 can warn Catholic University or a developer, that if they're
8 going to buy that property, it's going to be used for a golf
9 course or a cemetery or something of that ilk -- not what the
10 adjacent zoning will bring. And that's what happens.

11 And I know you don't want to hear this, and
12 we're short on time, but I would urge us to either ask the
13 Office of Planning to set up a task force, which is what we
14 did last time, or pursue what I just said and come back with
15 language, whatever. But the Park Service is extremely
16 interested in this, and I think we all should be.

17 The second misunderstanding I'll finish with
18 Fred Green was, 'You can't zone federal property.' And that's
19 not what I meant, but you'll see a lot of that in here too.

20 So hopefully with more open eyes on both sides,
21 we can come to a more positive result this time.

22 CHAIRPERSON KRESS: Mr. Colby, you've heard
23 Commissioner Parson's suggestions. Do you believe a task
24 force might be an appropriate way -- what are your thoughts
25 given Commissioner Parsons' concerns?

26 MR. COLBY: Well, it may -- and I'm not Fred

1 Green, but I played a relevant role in the project previously,
2 and while I'm not at all certain that a further study or
3 another study basically, and another task force will do what
4 John has in mind, it's been so long since we did this before,
5 that I don't think it's unreasonable to look at it again.

6 I would only ask, plead, or say --

7 CHAIRPERSON KRESS: -- that it not be -- not
8 right now --

9 MR. COLBY: -- that we wait until we get the
10 staff, which we're hoping to -- that we have as part of the
11 budget, and that we wait for a new planning director to lead
12 us through that process.

13 CHAIRPERSON KRESS: Well, as you know, we're in
14 the same position as officers --

15 MR. COLBY: And I would advise that director to,
16 given whatever else is on his or her plate, that this is a
17 study that needs to be done. That the Commission is very
18 interested in it.

19 CHAIRPERSON KRESS: Well, perhaps it can be
20 added to the -- your status report as --

21 MR. COLBY: It's actually there, but we could
22 revise the status report to reflect this discussion today.

23 CHAIRPERSON KRESS: Exactly, and that the
24 thought is to set up a task force and further study it. If
25 that's all right. And we would probably think a couple of
26 months until you have the staff on board and could be getting

1 this --

2 MR. COLBY: It'll be longer than that, because
3 the staff we're talking about will be part of the 99, I meant
4 the 2000 budget.

5 CHAIRPERSON KRESS: Oh, so you can't have them
6 until October.

7 MR. COLBY: So that would be October, when we
8 would start the process of hiring, and it would be actually
9 the millennium, or at least the first portion of the
10 millennium, before we might have them on board.

11 Well anyway, that's our problem, but I would
12 only add that we also have initially a major, comprehensive
13 plan consistency exercise, that we've got to go through
14 jointly to -- coming from the comprehensive plan, 1998
15 amendments, and --

16 COMMISSIONER PARSONS: Well, would there be any
17 objection for the Park Service to give a whack at making such
18 a report and working with David?

19 MR. COLBY: I'd be happy to do any of that.
20 It's just that, I know the first time around, the project took
21 a fair amount of staff time on our part. And we sort of went
22 around and around. I'm not sure that we made a lot of
23 progress, but we spent a lot of time doing what we were doing.

24 And I'd be happy for any assistance that you
25 could provide --

26 COMMISSIONER PARSONS: Let's try that.

1 MR. COLBY: -- and we would try and accommodate
2 that.

3 COMMISSIONER FRANKLIN: Could I just voice some
4 vagrant thoughts on this subject?

5 (Laughter.)

6 The Soldier's Home example is an interesting
7 one, because I don't think the Commission should feel itself
8 intimidated by the sale of federal land, and somebody coming
9 in and wanting to zone it for development, when it's been an
10 open space.

11 Any lawyer who represents a purchaser that
12 doesn't make that sale contingent upon, you know, the decision
13 of the Zoning Commission with respect to the way in which the
14 land will be zoned, is really guilty of malpractice, it seems
15 to me.

16 The fact that there's been a sale, does not
17 force our hand one whit in terms of how we zone that land.
18 Albeit, the fact that it's in private ownership, we have to
19 allow a certain amount of economic utility. So we can say,
20 you know, you can put in a golf course or a pitch and putt or
21 whatever.

22 However, it does seem to me that if we are going
23 to be confronted by the sales of federal properties for
24 development, it would be worthwhile for somebody to think of a
25 way in which the Commission might signal its views about this.
26 Not necessarily in a firm regulation, but maybe having a

1 regulation as to what the standards would be to entertain the
2 rezoning of land that is transferred from federal to private
3 ownership.

4 And specially addressing the open space
5 character of that land. So once it gets onto our regulations,
6 it's out there as a signal that this is going to be a very,
7 very tough row to hoe. If that's what you're really driving
8 at.

9 MR. COLBY: Yes. The process now is just
10 ridiculous.

11 There's a property of 25 acres next to McMillan
12 Reservoir that GSA put on the market, and the city bought for
13 nine million dollars. And the value was determined based on
14 the adjacent zoning. And the city bought it 15 years ago and
15 hasn't figured out what to do with it, but --

16 There should be some way to signal that just
17 because it's R-4 across the street doesn't mean that we'll be
18 persuaded that R-4 is a substitute for open space.

19 CHAIRPERSON KRESS: We've got 15 more minutes
20 and a lot to accomplish, but I think that Commissioner
21 Franklin's thoughts could also be a part of ultimately what
22 this task force would be looking at -- that Commissioner
23 Parsons has recommended.

24 I would just like to ask one thing. Where is
25 the Chain Bridge University Terrace overlay? The status
26 report mentions that the proposed action was on February 8th.

1 Where's our final action? Did we do final action, Sheri?

2 MS. PRUITT-WILLIAMS: Yes, I'll let the staff
3 person answer that.

4 MR. ERONDU: Madam Chair and the rest of the
5 Commission. The letters of proposal just went up this
6 afternoon. There were a lot of changes done by the Office of
7 Corporation Counsel even in the text, which I had to send it
8 back to OP because they rejected the text. And they brought
9 it back, sent it back again to the Office of Corporation
10 Counsel where we finally worked something out today and it's
11 on for publication.

12 CHAIRPERSON KRESS: So do you believe it will be
13 ready for us at our next meeting?

14 MR. ERONDU: Depending on the comments that we
15 make on the notice of proposal that we're making even if the
16 comments are not very much, something to be addressed, even if
17 that is the case, you'll get a draft order.

18 CHAIRPERSON KRESS: All right. Thank you.

19 MR. ERONDU: Thank you.

20 CHAIRPERSON KRESS: Any other questions?

21 COMMISSIONER HOOD: Ms. Kress, can I make a
22 statement right quick before I forget? I know we only have a
23 few minutes.

24 CHAIRPERSON KRESS: Sure.

25 COMMISSIONER HOOD: I just wanted to thank
26 Chairman Kress and also Sheri Pruitt-Williams for the fine job

1 they did, and for a job well done in justifying our budget and
2 Office of Zoning.

3 I just wanted to put that on the record.

4 CHAIRPERSON KRESS: Well, thank you. I
5 appreciate that.

6 With that we'll move on to the correspondence
7 and Ms. Pritt-Williams.

8 MS. PRUITT-WILLIAMS: Yes, Madam.

9 You have several pieces of correspondence. The
10 first one is 88-16C Consolidated PUD, at 901 New York Avenue,
11 with a letter from Wilks, Artirst requesting an extension for
12 two years.

13 There's our memorandum and an OP's memorandum
14 also before you.

15 CHAIRPERSON KRESS: Okay. Thank you.

16 This is another one with a lot of designer
17 flexibility -- design flexibility built into this.

18 Any comments on this -- modification for
19 extension?

20 COMMISSIONER FRANKLIN: Well, Madam Chair, I
21 vote in favor of it because of the extraordinary circumstances
22 involved in this case, and the fact, if I'm not mistaken, that
23 the immunities have already largely been provided.

24 Am I correct about that?

25 CHAIRPERSON KRESS: Well, at least a million
26 six, as I read it.

1 What concerns me is the ANC's 2F letter where it
2 talks about modification of the PUD to permit development of
3 the site either as a hotel or an updated office project.

4 It appears that this is also in a state of flux.
5 I'm not sure what Office of Planning knows, and I'm not really
6 sure. Does it appear it's going to be coming back to us for
7 some other modifications?

8 MR. COLBY: It could well come back as a hotel,
9 which of course the city would support, strongly support, in
10 that location, as opposed to the approved office use. If that
11 were to fall through then the project would want the right to
12 continue as approved as an office.

13 But we're hopeful that the hotel will -- it will
14 become a hotel and will come back for a modification to enable
15 that to go forward.

16 In the meantime it has to just preserve its
17 development rights, and we're very hopeful that this won't be
18 another one on the list, that stays on the list too long, but
19 in fact will become that hotel.

20 CHAIRPERSON KRESS: Well, in fact this extension
21 of time takes it to the twelve years which has been suggested
22 in the comprehensive plan as the cutoff for extensions. Is
23 that not correct?

24 COMMISSIONER FRANKLIN: Well, and then the
25 Commission will have to decide, and of course the Commission
26 will be deciding on criteria for exceptions to that twelve

1 years. But yes, that's getting close to the limit where
2 exceptions would become important.

3 MR. BASTIDA: Madam Chairperson, if I may add
4 with the Office of Planning. The applicant representative, he
5 stated to me, that they are coming for a time extension to
6 have enough time to prepare the drawings and file for a
7 modification to the plan, and that this is an exercise, so
8 they have enough time to prepare those plans.

9 They believe that they have a firm commitment
10 for the hotel and that would be coming to this Commission
11 pretty soon.

12 CHAIRPERSON KRESS: All right. Thank you.

13 COMMISSIONER PARSONS: Madam Chairman, I move
14 approval.

15 CHAIRPERSON KRESS: Thank you. Is there a
16 second?

17 COMMISSIONER FRANKLIN: Second.

18 CHAIRPERSON KRESS: Any further discussion? All in
19 favor signify by saying aye?

20 (Chorus of ayes.)

21 Opposed?

22 Motion carried.

23 MS. PRUITT-WILLIAMS: Staff would record the
24 vote as four to zero to approve motion made by Mr. Parsons,
25 seconded by Mr. Franklin.

26 CHAIRPERSON KRESS: Thank you.

1 MS. PRUITT-WILLIAMS: Next item on your agenda
2 deals with Case 98-1M/97-9C, PUD Modification, Map Amendment,
3 and Use of Air Space, and Square 51 at 2200 M Street, the
4 Millennium Partners.

5 There's a letter from Ms. Kahlow requesting a
6 motion for reconsideration of her party status. Also included
7 is a second letter from Ms. Kahlow on that same issue, and
8 then a memo to Corporation Counsel requesting advice.

9 CHAIRPERSON KRESS: All right.

10 I would say that we have gotten preliminary
11 advice from Corporation Counsel, and they have suggested that
12 the PUD modification is a new proceeding, and so there was no
13 carry over from the base PUD as far as to party status. And
14 that basically we could rest on our discussions in the
15 transcripts as the reasons for rejecting Ms. Kahlow's party
16 status.

17 If the Commissioners are in agreement, perhaps
18 we can have a motion to --

19 What would our motion --

20 COMMISSIONER FRANKLIN: -- deny her motion.

21 MS. PRUITT-WILLIAMS: Either a motion to deny
22 the motion, or a motion to --

23 CHAIRPERSON KRESS: -- a motion to deny the
24 motion,, excuse me, yes.

25 Mr. Franklin, would you --

26 COMMISSIONER PARSONS: I would move that we deny

1 the motion of Ms. Barbara Kahlow to reconsider -- for
2 reconsideration of her party status.

3 COMMISSIONER FRANKLIN: Second.

4 CHAIRPERSON KRESS: Any further discussion?

5 All in favor signify by saying aye.

6 (Chorus of ayes.)

7 MS. PRUITT-WILLIAMS: Staff would record the
8 vote as four to zero to deny. Motion made by Mr. Parsons,
9 seconded by Mr. Franklin, Mr. Clarens not present, not voting.

10 And then finally under Other Business, you have
11 a memo to Corporation Counsel concerning the refund for Zoning
12 Case 91-3C, a Consolidated PUD and Map Amendment from M to C-
13 3-C for lots 107, 110, and 820 in square 712, at First, L, and
14 M Streets, Northeast, the Woodie's Warehouse.

15 And then there's also a response from
16 Corporation Counsel.

17 This is before you for decision.

18 CHAIRPERSON KRESS: To decide -- I'm trying to
19 figure out exactly what is before us for decision. To decide
20 whether we can refund the
21 money --

22 MS. PRUITT-WILLIAMS: -- the fee.

23 CHAIRPERSON KRESS: That the applicant has paid
24 for the hearing.

25 MS. PRUITT-WILLIAMS: Correct.

26 CHAIRPERSON KRESS: We have from Corporation

1 Counsel on this, and they feel there is no statutory or budget
2 authority given to the Zoning Commission and have recommended
3 that we are not able to return, neither statutorily or from a
4 budget perspective, the fee.

5 So with that, I would ask for a motion to deny
6 the refund of the hearing fee for this case.

7 COMMISSIONER PARSONS: So moved.

8 CHAIRPERSON KRESS: Second.

9 Any further discussion?

10 Hearing none, all in favor signify by saying
11 aye.

12 (Chorus of ayes.)

13 Opposed?

14 (No response.)

15 Motion carried.

16 MS. PRUITT-WILLIAMS: Staff would record the
17 vote as four to zero to deny the refund of the fee. Motion
18 made by Ms. Kress and seconded by Mr. Parsons.

19 CHAIRPERSON KRESS: No.

20 MS. PRUITT-WILLIAMS: I'm sorry. I thought it
21 was made by Ms. Kress.

22 COMMISSIONER PARSONS: I made the motion.

23 MS. PRUITT-WILLIAMS: I'm sorry. Mr. Parsons
24 made the motion, excuse me, seconded by Ms. Kress.

25 CHAIRPERSON KRESS: I was fumbling around trying
26 to find the words.

1 MS. PRUITT-WILLIAMS: Sorry about that.

2 CHAIRPERSON KRESS: One last thing on our
3 meeting agenda, and I'm trying to make the 3:15 deadline, and
4 that is where we need to meet for the prison. And I would
5 like quickly for Ms. Pruitt-Williams to tell us what our
6 options are.

7 MS. PRUITT-WILLIAMS: Yes, Madam Chair. Because
8 we had originally signed up to have the Counsel chambers --

9 CHAIRPERSON KRESS: Commissioner Parsons gets to
10 --

11 MS. PRUITT-WILLIAMS: -- subsequently, yes,
12 Kevin Chavous has scheduled hearings for UDC which bumps us
13 out of the Counsel chambers.

14 There is no room in this building large enough
15 to accommodate the crowds anticipated, and there's no way that
16 we can get D.C. Cable to close-circuit for us. So we've had
17 to change venues or try to find another venue to accommodate
18 the crowds we anticipate.

19 On this late date the only place -- there are
20 two places that we can get for the same dates, that we have
21 already scheduled, which are the 15th, 19th, and 22th. That
22 would be the University of the District of Columbia in one of
23 their lounges which they have Town Hall meetings or the
24 Commerce Building at 15th and Pennsylvania Avenue.

25 Now there's also a third --

26 COMMISSIONER FRANKLIN: Are you referring to the

1 departmental auditorium?

2 MS. PRUITT-WILLIAMS: Yes.

3 COMMISSIONER FRANKLIN: The Mellon Auditorium.

4 MS. PRUITT-WILLIAMS: Yes, which holds about 500
5 people.

6 Now we only have the Mellon Auditorium for two
7 days though, the 15th and 19th. That's what's confirmed. We
8 don't have three days there.

9 There's a third option which would allow us to
10 use the Convention Center for three days in a row, but it
11 would be the last three -- well it would be the 25th, 26th and
12 27th of April. So that's a Monday, Tuesday and Wednesday,
13 which is not our hearing schedule at all. So.

14 Those are our three options before us.

15 CHAIRPERSON KRESS: There have been a multitude,
16 but this is what it's boiled down to.

17 MS. PRUITT-WILLIAMS: This is what we have
18 whittled it down to since last Wednesday.

19 COMMISSIONER FRANKLIN: How many people can be
20 accommodated at UDC?

21 MS. PRUITT-WILLIAMS: 250 to 350.

22 COMMISSIONER FRANKLIN: That's not very big.

23 CHAIRPERSON KRESS: I would just say last time,
24 for your perspective, is the Counsel chambers holds 275 which
25 we did fill because we had to have people outside, and my
26 guesstimate, there was at least 50 to 100 outside. And so

1 that gives us an idea --

2 COMMISSIONER FRANKLIN: Also UDC is not that
3 convenient to a lot of people.

4 COMMISSIONER HOOD: Exactly. I believe that
5 UDC, especially for the site that is proposed to build a
6 prison, UDC is across town. I think we need to find a
7 midpoint so we can consider some of the people who are mostly
8 affected, as opposed to having UDC.

9 I would not be in favor of us having that
10 hearing at UDC.

11 CHAIRPERSON KRESS: What do you think of the
12 Department of Commerce and the Convention Center?

13 I will tell you that the Convention Center we
14 had tentatively looked at, but the applicant felt strongly
15 that they wanted to --

16 MS. PRUITT-WILLIAMS: The applicant has a
17 conflict on the 27th. They can make the 26th, but they will
18 not be in town on the 27th, and I don't know if they can
19 rearrange their plans. We didn't get that far.

20 COMMISSIONER HOOD: One of the things that I had
21 made a suggestion on, I don't know how effective it was, was
22 to have Spingarn or Ballou High School, in the auditorium, and
23 that would probably solve a lot of problems.

24 I know at this late date, it's probably kind of
25 late to do that, but that's one of the things that I had
26 mentioned to Ms. Williams when I tried to call.

1 CHAIRPERSON KRESS: How many people are seated
2 in those auditoriums?

3 COMMISSIONER HOOD: I'm not sure what the
4 capacity is, but I know it's more than 300.

5 CHAIRPERSON KRESS: The problem is that we've
6 been working on this almost every day, and we are running up
7 close on a deadline.

8 How do you feel about the Department of
9 Commerce, because that auditorium was 500 you said?

10 MS. PRUITT-WILLIAMS: Correct.

11 COMMISSIONER FRANKLIN: And that's available
12 when?

13 MS. PRUITT-WILLIAMS: That's available for the
14 19th and 22nd.

15 CHAIRPERSON KRESS: I thought you said 15th and
16 19th.

17 MS. PRUITT-WILLIAMS: I'm sorry, 15th and 19th,
18 yes, I'm sorry. The first two hearing dates.

19 CHAIRPERSON KRESS: We might have five hearing
20 dates on this. I don't think we have to necessarily have
21 three hearing dates to begin. We can continue and continue
22 whatever date we want. I think it's important that we have at
23 least the first date and perhaps we can go somewhere else.

24 I'm being concerned because we've spent hours
25 and hours and hours and around and around, and this hearing is
26 this coming Thursday, that we need to, wherever this is, start

1 getting the information out, and that to take another day or
2 two to try to figure this out --

3 MS. PRUITT-WILLIAMS: We need to get the
4 information out wherever it is, because it's not going to be
5 here, where it's been advertised.

6 So we do at least need to get a press release
7 out, and it's something for hopefully the News Channel 8 cable
8 to at least identify where it will be, so that we won't have
9 as many people coming here.

10 We will have to do something where we'll have
11 staff here and then allow for an extra hour or so, so people
12 who didn't get the notice who comes here, can still get to the
13 meeting hearing on time and not have missed anything.

14 So we will, of course, notify all the parties
15 and ask the ANC's and parties to disseminate the information
16 as much as possible, but we do anticipate there'll be some
17 stragglers, so --

18 CHAIRPERSON KRESS: Did we have problems with
19 the security at the Department of Commerce?

20 MS. PRUITT-WILLIAMS: I have to find out. Based
21 on the letter that was sent to us, that it is a charge of
22 twenty dollars an hour for the space, plus we will then have
23 to pay for security. And I don't believe that our protective
24 services can do the federal projects. That's what I'm trying
25 to get some confirmation on.

26 CHAIRPERSON KRESS: And are we going to be

1 asking the applicant to pick up the cost of that or not?

2 MS. PRUITT-WILLIAMS: I believe so because, yes,
3 we have nothing in our budget to allow for the accommodation
4 of any of that.

5 CHAIRPERSON KRESS: But I really wanted your
6 thought. My thought right now is to set on something for the
7 first meeting or two, and then perhaps be able to explore the
8 school's --

9 COMMISSIONER HOOD: I really think the
10 auditorium sounds like a good idea, almost like a midpoint.
11 But again, I would not be in favor of UDC, even though I'm an
12 alumnus of UDC --

13 (Laughter.)

14 COMMISSIONER HOOD: It's across town, and I
15 think that would be putting a lot of people at a disadvantage.

16 CHAIRPERSON KRESS: There is still the
17 Convention Center, even though the applicant has difficulty
18 with that.

19 COMMISSIONER FRANKLIN: What are the dates again
20 at the Convention Center?

21 MS. PRUITT-WILLIAMS: 25th, 26th and 27th.

22 COMMISSIONER FRANKLIN: But nothing before then.

23 MS. PRUITT-WILLIAMS: No, they're booked
24 already, we've already tried. That was their first available
25 date.

26 COMMISSIONER FRANKLIN: And they would pick up

1 the cost.

2 MS. PRUITT-WILLIAMS: There would be a minimal
3 cost to the District. I need to get back -- I've only
4 confirmed this tentatively on Friday, and Claude Bailey didn't
5 have the details actually at that point of how much it would
6 be. But he was going to try to keep it down, since it was a
7 District project.

8 We wouldn't have as much cost associated with --
9 as much problem. We'd have to have protective services, but
10 they'd be District police, and we can move money that way.

11 COMMISSIONER FRANKLIN: Well, the 25th is a
12 Sunday.

13 MS. PRUITT-WILLIAMS: I'm sorry, then it's 26th,
14 27th and 28th. I didn't have a calendar directly in front of
15 me.

16 CHAIRPERSON KRESS: It's Monday, Tuesday,
17 Wednesday.

18 MS. PRUITT-WILLIAMS: That's right.

19 CHAIRPERSON KRESS: Like I say, the only
20 downside is the applicant has already said they have a
21 problem. The lawyers have a problem with one of the dates --
22 the 27th?

23 MS. PRUITT-WILLIAMS: Yes. Except for this has
24 been one of these projects that's been postponed by both sides
25 -- or rather three or four times. So this is where we are
26 ending up, unfortunately.

1 COMMISSIONER FRANKLIN: Well, my inclination
2 would be, at least for Thursday night, to, you know, any port
3 in the storm, is to go with the Mellon Auditorium, and in the
4 meantime see if there's some arrangements that can be made for
5 the three nights we've set aside, and that might be announced
6 at that time.

7 CHAIRPERSON KRESS: So, if we can explore -- how
8 do you feel about --

9 COMMISSIONER FRANKLIN: The Convention Center
10 seems to me okay. I'm not that excited about a school
11 auditorium, because I just don't know what the security
12 arrangements would be, and the speech reinforcement --

13 MS. PRUITT-WILLIAMS: The only concern I would
14 have -- that was going to be the problem with UDC. We would
15 have to rent audio equipment for that, because they don't
16 provide it.

17 CHAIRPERSON KRESS: For four thousand dollars?

18 (Laughter.)

19 COMMISSIONER HOOD: I believe Spingarn has a
20 pretty good sound system, at least the last time I was there.
21 I'm not sure whether it was rented or not --

22 COMMISSIONER FRANKLIN: Well, perhaps we can
23 explore that, while we at least can go forward with the first
24 one.

25 MS. PRUITT-WILLIAMS: -- or the first two. We
26 have two confirmed dates, Commerce.

1 CHAIRPERSON KRESS: This could go on for quite a
2 few meetings, so I just wanted to make sure that we felt
3 comfortable with Commerce.

4 COMMISSIONER FRANKLIN: My suspicion is that the
5 audience will dwindle as these go on.

6 MS. PRUITT-WILLIAMS: And as it does dwindle, we
7 can then have them here in our hearing room with no problem.

8 CHAIRPERSON KRESS: All right. Our decision is
9 Commerce, and we will go with that.

10 COMMISSIONER HOOD: Madam Chair, I'd just like
11 to add. I did speak with somebody at News Channel 8, so I
12 have a connection where we can get that publicized.

13 MS. PRUITT-WILLIAMS: Great, thank you very
14 much.

15 CHAIRPERSON KRESS: Any other discussion or
16 business?

17 MS. PRUITT-WILLIAMS: No, Madam Chair.

18 COMMISSIONER FRANKLIN: Before we conclude this,
19 it seems to me -- I don't know when that UDC hearing was set -
20 -

21 MS. PRUITT-WILLIAMS: Within the last two weeks.

22 COMMISSIONER FRANKLIN: So we got bumped.

23 MS. PRUITT-WILLIAMS: Yes. It is the Counsel's
24 policy that a councilman can bump any agency or person using
25 the hearing room. And we knew that going in. Of course, we
26 didn't know UDC was coming up. No one could have seen it on

1 the far horizon when we scheduled this.

2 COMMISSIONER FRANKLIN: Does Council Member

3 Chavés realize -- or did --

4 MS. PRUITT-WILLIAMS: I can't answer that. I

5 don't know, Mr. Franklin.

6 (Laughter.)

7 COMMISSIONER FRANKLIN: No further comment.

8 CHAIRPERSON KRESS: All right.

9 MS. PRUITT-WILLIAMS: Thank you.

10 If there is no more business, I declare this

11 hearing adjourned.

12 Thank you.

13 (Whereupon, the Regular Meeting of the Zoning

14 Commission of the District of Columbia, was concluded at 3:16

15 p.m.)

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